

**AREA PLAN COMMISSION OF TIPPECANOE COUNTY
ORDINANCE COMMITTEE
MINUTES OF PUBLIC MEETING**

DATE.....February 17, 2003
TIME.....4:30 P.M.
PLACE.....COUNTY OFFICE BLDG.
20 N. 3RD STREET
LAFAYETTE IN 47901

| MEMBERS PRESENT | MEMBERS ABSENT | NON-VOTING | STAFF PRESENT |
|---|-----------------------|-------------------|----------------------|
| KD Benson | | | Sallie Fahey |
| Mark Hermodson | | | Margy Deverall |
| Gary Schroeder | | | Kathy Lind |
| Robert Bowman | | | Heather Prough |
| Steve Schreckengast (<i>arrived 5:30</i>) | | | Jay Seeger, Atty |
| Dr. Carl Griffin | | | |

KD Benson called the meeting to order.

I. APPROVAL THE MINUTES

Mark Hermodson moved to approve the minutes of the February 4, 2004 meeting. Robert Bowman seconded and the motion carried by voice vote.

II. WALLACE TRIANGLE NEIGHBORHOOD PROPOSED ZONING MAP: Continuing discussion of the Neighborhood's and Staff's proposals.

Kathy Lind informed the Committee that she researched the history of 612 South 10th Street. She explained that this was the property that was originally a duplex and then had a fire, and after the fire a 3rd unit was built. She said that the lot width was 59' and in 1995 the R3 zone had a lot width minimum was 70'. She stated that the lot coverage in 1995 for the R3 zone was 40% and it is currently between 45-48% covered. She mentioned that neither she nor the City of Lafayette could find any variance or special exceptions filed or granted for this property. She stated that this all took place in 1995.

KD Benson asked if it was possible if there were variances at one time that are no longer listed.

Kathy Lind replied negatively. She said that the database for variances was very extensive.

Sallie Fahey pointed out that this was confirmed with the City of Lafayette.

Gary Schroeder asked about the lot width of the old ordinance compared to the new.

Kath Lind stated that the lot width minimum for an R3 zone was currently 60' for a single family or a duplex and 70' for a multifamily.

Heather Prough stated that for an R3U zone the lot width was 40' for a single-family home, 60' for a duplex and 70' for a multifamily.

KD Benson asked for clarification that this was a circumstance where an R3 went in without a public meeting.

Kath Lind replied affirmatively. She presented a letter from Jim Noonan, 618 South 11th Street, Lafayette, IN, who is the President of the neighborhood association and could not be there.

KD Benson opened the floor to discussion on the motion made at the last meeting, to amend the map to reflect an R3 zone for 612, 614, and 616 South 10th.

Diane Bottum, 1142 State Street, Lafayette, IN, stated that the purpose for the neighborhood starting these meetings was to ensure there was no R3 in the area. She said that the neighborhood wanted all R1 and then compromised to R2 with the landlords. She stated that it was an inappropriate density to have R3 in this neighborhood because the streets are narrow and the sewer system is old. She said that the goal of the neighborhood was to eliminate the excessive population and keep the area maintainable.

KD Benson asked for clarification that the group Diane Bottum referred to was the Wallace Triangle Neighborhood Association.

Diane Bottum replied affirmatively.

Teresa Noonan, 618 South 11th Street, Lafayette, IN, stated that the APC staff proposal for this neighborhood was a good compromise. She said that this proposal represents the fact that this neighborhood has a mix of uses, while still maintaining the character of the single-family environment. She stated that the proposal represents what is best for area residents by stopping the expansion of multi-unit homes and possible destruction of historic homes. She reiterated that this proposal was an equitable compromise. She explained that when the whole process started the resident homeowners, which included 70 signatures and 41 letters, overwhelmingly supported R1U for the entire neighborhood, but then compromised to some R2U. She stated that would allow a landlord to rebuild a duplex on a multi-family if a disaster were to strike. She reiterated that this would stop future expansion of multifamily. She stated that even one spot zone of R3 would open the door for any type of multifamily and does not protect the neighborhood. She pointed out that while rental properties are businesses for the landlords, they depreciate in value and depreciate the value of the neighborhood. She said that the neighborhood is maxed out and cannot support multifamily units because of the small streets and limited off-street parking. She stated that investment properties would be grandfathered in and could continue in their use and be sold and maintained. She pointed out that the only impact downzoning would have would be on expansion. She stated that the reason that the neighborhood has not slipped any further is because there have been a lot of long-term residents who would be retiring soon and things would change. She said that this is an old neighborhood and deserves respect. She asked that no R3 exceptions be allowed.

Gary Schroeder asked if there have been expansions other than Mr. Sander's property.

Teresa Noonan replied affirmatively. She reiterated that when the older residents start to retire they would move out and more houses in this neighborhood would be on the market.

Gary Schroeder asked if there have been any expansions in terms of increasing building size.

Teresa Noonan replied that she was referring to expansion in terms of density. She pointed out that expansion could be within existing walls and when the density is increased there would be more people, more trash, more noise, more traffic and more parking.

Gary Schroeder asked if there have been new structures or expanded building sizes.

Teresa Noonan replied affirmatively.

Gerry Leavell 1007 State Street, Lafayette, IN, stated that they purchased their property in 1975 as a 6-unit apartment building. He said that there is one 2-bedroom apartment where they lived for 23 years and 5 efficiencies. He stated that it is still maintained the same way and has not expanded at all. He said that they have done a lot to improve the neighborhood and their property. He stressed that he has not done anything to denigrate the neighborhood. He said that even if the R2 were approved it would decrease the value of his property. He explained that the even though there is a grandfather clause, they would not be able to rebuild in the case of a disaster. He agreed that there should be a contingent clause that prohibits the expansion of additional units or multifamily homes. He stated that it was inappropriate to penalize a landowner if the property was purchased as a multifamily and the owner has not expanded or changed the

use. He mentioned that at previous meetings it has been stated that in the case of disaster, the landowner would have the insurance money. He explained that is not necessarily the case because a lot of insurance policies have rebuilding clauses, which requires it to be rebuilt exactly as it was. He clarified that if the insurance policy requires that the building is rebuilt exactly the same and the zone does not allow the exact same thing to be rebuilt, the owner would not get the full insurance coverage they are paying for. He stated that he would agree to a prohibition of further expansion or increased number of apartments above what exists. He said that to eliminate the possibility of rebuilding what is currently existing or what was purchased would be to unfairly penalize the owner.

KD Benson asked if it was possible to create the stipulation that no further apartments are built.

Mark Hermodson replied negatively.

Sallie Fahey replied that was what this proposal was doing.

KD Benson asked if it was possible to create that restriction while still being able to rebuild.

Sallie Fahey replied negatively.

Someone from the audience asked if comments were supposed to be directed towards a specific property.

KD Benson stated that comments should be directed to a specific property. She said that she allowed the last comment because the circumstance would also apply to the Sanders property.

Gary Schroeder moved to table the motion to amend the map to reflect an R3 zone for 612, 614, and 616 South 10th. Carl Griffin seconded and the motion carried by voice vote.

LaDonna Shorter, 601, 603 and 605 South 10th Street, Lafayette, IN, pointed out that a lot of the concern was due to parking. She explained that because this was an old neighborhood the garages and alleys were smaller and modern cars do not fit, therefore they still have to use the street. She stated that she used to own 1104 Kossuth Street, and when she bought it, she did build an addition. She explained that at the time of purchase it was a crack house and completely run down and the addition was a part of the restoration. She mentioned that this property joined another one of her properties at 1103 State Street. She stressed the fact that she bought this house in order to save it. She pointed out that since then she has sold 1104 Kossuth Street and it has reverted back to a single-family home. She stated that she owns 3 other properties that are zoned R3 and 2 are proposed to be R2 and the third is proposed to be R1. She said that she has compromised during this process. She mentioned that one of her R2 properties, which used to be R3, has 3 residences on it. She stated that there was a duplex and a flat above a garage. She stressed that it was built that way in 1948. She commented that when she bought them they were R3 and she was very aware of that when she bought them. She reiterated that she has greatly compromised during this process and the resident owners have to do the same. She stated that it is not fair for others to change an existing zone, just because that is what they want for the neighborhood, when it is not their property.

Kathy Lind reviewed the Shorter's properties and pointed them out on the map.

LaDonna Shorter explained that the Elliot street house was single-family and they purchased it before it went on the market.

Sallie Fahey stated that the property at the southeast corner of 10th and Elliot does conform in R2U because it is a duplex and a detached garage apartment. She said that it is not a multifamily building. She said that they could rebuild the duplex. She explained that they could also rebuild the single-family garage apartment, but the land isn't divided. She said that they have a subdivision problem, not a zoning problem because there are 2 primary use buildings on one lot.

KD Benson asked if someone bought 3 adjoining lots, if they could combine them and build a large apartment complex.

Sallie Fahey stated that because Lafayette has a different lot definition than every other jurisdiction that would be allowed without any re-platting required. She pointed out that even in other jurisdictions, it might not be prevented, but it would at least bring it to the attention of the neighbors.

James Werner, 615 South 10th Street, Lafayette, IN, stated that he supported an R3 zone for the multifamily properties that have been multifamily for a long time. He pointed out that there is no precedent in the City of Lafayette of a rezone from R3 to R1 but there is legal precedent of spot zoning to R3 in areas that were downzoned. He said that in terms of protecting rights, the value of things is less than by rights. He stated that when this process started there was a meeting held by invitation only, and none of the landlords were invited. He said that the Neighborhood Association decided that they wanted an exclusive neighborhood of R1 and that was ridiculous for an area that was clearly R3. He stated that as an investor of R3 properties, he uses the APC maps to determine good investment areas. He pointed out that if an area is designated on a map as R1 and yet there are several multifamily units that information is deceiving and makes it difficult to plan. He stated that spot zoning should be considered because it gives an accurate reflection of what is there and minimizes the non-conformity. He encouraged new homeowners and future homeowners to look at the APC maps so they are informed about what they are buying. He said that compromise is not getting what you want for your own property and taking something away from someone else. He mentioned that the APC assessed the condition of the properties and concluded that the area was in poor condition because of the rental properties. He presented pictures of some of the rental properties; showing that some of them are in very good condition. He pointed out some aesthetic blemishes on his own property. He mentioned that one property owner complained about the parking and he presented pictures comparing that owner's parking with the parking of Mr. Sanders property. He reviewed pictures of the area pointing out trash cans in the alley of some of the property owners. He said that some of the complaints that the property owners have against the tenants are unfounded. He reviewed documents showing the history of his property as a multifamily. He mentioned that the rights of the tenants and landlords were not respected in these proceedings because they were not invited. He pointed out that there were between 75-100 signatures in support of R1, but asked what proportion that was to the actual number of people living in the neighborhood. He reiterated that this is an R3 neighborhood. He stated that it was inefficient for one person to live in a giant mansion. He said that in 1964, his property was considered a duplex and over the years it has been more than that due to economic cycles. He reviewed the history of his property and the neighboring properties based on the abstracts from the early 1900's. He mentioned that he has no intention of adding any units to his property. He said that the idea of grandfathering something is wrong because if a property is single family and an owner lives there for a long time, they might want to rent out the other units during their retirement years. He mentioned that the structure on his property has never been moved, as previously stated. He presented a document from an architect stating that the foundation on this structure was 125-year-old limestone.

Stephen Wien, 619 South 10th Street, Lafayette, IN, stated that he has lived at this location for 28 years. He said that most of the landlords in this area are pretty decent and do a pretty good job of maintaining their property. He pointed out that the property next door to his, which is owned by Mr. Werner, has had 6 or 7 different owners in the last 28 years. He mentioned that because this is an investment property, it would continue to be bought and sold. He stated that he lived in his own residence permanently. He stated that Mr. Werner has an art studio on the upper floor, but if he decides to sell it, it could become an efficiency without anyone knowing. He said that Mr. Sanders is in ill health, and therefore the longevity of his ownership is uncertain. He stated that there was no certainty as to any new owner, but if a property is R3, it is almost impossible to control. He used the example that it was recently discovered that Mr. Sanders did not have a variance to add what he added. He pointed out that the opposition is not to what was currently in existence, but to what it could be if it were sold and an R3 was allowed.

Kathy Downey, 520 South 10th Street, Lafayette, IN, stated that her home is built across 2 lots and she has lived there for 17 years. She said that the current zoning in the neighborhood is R3 and that is a mistake because it is clearly an R1 area. She stated that it would be prudent for the APC to downzone this area to R1U. She agreed with the compromises included in this proposal. She pointed out that the 9th Street Hill Association went through the same process a few years ago and successfully downzoned to R1 and R2 with only one property zoned R3. She mentioned that the 9th Street area started out with more R3 than the Wallace Triangle has. She stated that it takes the City Engineer's office, code enforcement and the proper zoning to maintain the neighborhood character, and one entity alone cannot do it. She asked that the Committee look at what is best for the neighborhood and not what is best for individual property owners.

Bruce Bottum, 1142 State Street, Lafayette, IN, agreed with the last 2 speakers. He reiterated his previous comments that enforcement of zoning was needed. He said that the proper zoning was needed so that residents could report violations to the proper authorities. He pointed out three examples of variance and zoning violations in the neighborhood. He said that he was in favor of the proposal and the compromises it included.

Brice Culverhouse, 622 S. 11th Street, Lafayette, IN, agreed that the problems are not with the landlords, but with the tenants. He said that the Shorters have been decent landlords. He stated that when the Shorters added on to one of their properties, they created a dorm for college students. He said that if the Shorters obtained a variance, he never saw a sign posting. He gave the example that the Shorters rented out the property to 4 women, who had 4 boyfriends, which created a parking problem. He mentioned that on one of the other Shorter properties, they had tenants that were running a motorcycle repair shop out of the garage and had 2 snowmobile trailers parked on the street taking up several spaces. He commented that parking variances are given away like candy.

Mark Hermodson stated that the arguments being heard are repetitive. He said that he has not seen any properties yet that could convince him that they were originally built as R3s. He pointed out that the pictures he has seen are of buildings that are old and in some cases historic. He said that even those with add ons do not look like they were built as R3s. He stated that it is simply not true that downzoning would lower property values. He referred to the Chauncy neighborhood as an example of stabilizing an area for increased property value.

Mark Hermodson moved that the staff's proposed map be sent to the full Plan Commission.
Robert Bowman seconded the motion.

Steve Schreckengast asked what happened to the motion he made at the last meeting.

KD Benson stated that it was tabled.

Steve Schreckengast asked if the process of discussing individual properties had been done like it had with other neighborhood.

KD Benson explained that the discussion has been in general terms. She stated that no one has specifically asked that their property be changed.

Mark Hermodson stated that there were general requests.

James Werner stated that he had submitted a written request.

Steve Schreckengast stated that in previous neighborhood rezones, they have always looked at individual properties. He referred the Chauncy Hill as an example.

Mark Hermodson stated that in the Chauncy Hill rezone, the spot zoning was on properties that were definitely built as R3s. He said that in this neighborhood there is not one property that applies to.

Steve Schreckengast stated that he wanted to ensure that all property owners have a chance to discuss their properties.

KD Benson asked the staff if there were any multifamily structures that went to R1U instead of R2U.

Kathy Lind replied negatively.

KD Benson explained that all multifamily structures dropped from R3 to R2 and all single-family structures dropped from R3 to R1. She said that even though the neighborhood has been R3 for 40 years, it is fundamentally R1 with just a few scattered exceptions.

Kathy Lind stated that in 1965 there was only one multifamily, which received an R3 zone.

Steve Schreckengast pointed out that since it has been R3 for 40 years and there have been no large apartment complexes built, that should be an indication that no one wants to or would have already.

Mark Hermodson stated that it would leave the door open to build large complexes.

Someone from the audience stated that was incorrect.

KD Benson stated that for the moment, public comment was closed. She asked Sallie Fahey to address the restrictions of building a large multifamily unit.

Sallie Fahey stated that for anyone lot in this triangle, if it were zoned R3 or R3U, a variance or variances would have to be obtained in order to have a building permit issued. She said that in every case it would be a lot width variance and in many cases it might be an additional lot coverage variance and/or a lot area variance. She pointed out that if someone obtained several lots and was able to meet the lot width, parking and lot coverage requirements, they could in theory tear down what is there and build a multifamily complex without seeking variances or having a public hearing.

Bruce Bottum stated that the property at 1138 State Street was zoned R1U and there were 4 families living there.

Kathy Lind stated that the property Mr. Bottum was referring to was currently zoned R1 and had not been discussed because it was not changing.

Sallie Fahey stated that the staff has discovered that the property ownership lines on the map do not match up to the proposed zoning lines. She asked that the staff have permission to adjust the lines so that the zones match each property.

Steve Schreckengast asked that the motion he made at the last hearing be voted on first, so that it can have an equal chance of discussion and then vote on Mark Hermodson's motion.

Mark Hermodson stated that Steve Schreckengast's motion was discussed at the beginning of this meeting. He asked the staff to reiterate the zoning history for the Sander's property.

Gary Schroeder asked if a motion to amend the map could be made once Mark's motion is voted on.

Jay Seeger stated that if the map is sent to the full Plan Commission, it could be amended at that point, but not in Ordinance Committee.

Kathy Lind reiterated the presentation she made at the beginning of the meeting, which showed that Mr. Sander's property never received the proper variances.

Steve Schreckengast asked if building permits were obtained.

Kathy Lind replied affirmatively.

Steve Schreckengast pointed out that would have been a mistake on both Mr. Sanders and the City.

Sallie Fahey explained that it is unclear if there was a mistake or a misrepresentation.

Daniel Teder, PO Box 280, Lafayette, IN, stated that he did not have any information on the mistake. He apologized to the Committee and to the City if it was Mr. Sanders' mistake and stated that Mr. Sanders would immediately seek the proper variances. He pointed out that the guidelines the Committee was using were just guidelines and not law. He said that he did not disagree with the proposal, but felt that the existing multifamily should be given some consideration. He stated that the guidelines being used were way too harsh for this situation. He said that there needs to be more cooperation. He mentioned that the R3 owners have done a great job in the neighborhood. He pointed out that it has been R3 for 40 years. He stated that he understands that the residents want change, but the proposal should also include some R3. He asked that the Committee disregard the guideline and think about the money and penalization this would cause the R3 owners. He stressed that R3 would not cause a teardown and rebuilding of larger units because of the lot sizes.

Steve Schreckengast reiterated that he would rather vote on individual properties before voting on the whole map. He asked if Mark Hermodson wanted to withdraw his motion.

Mark Hermodson reiterated that he has not seen any properties that fit the guidelines the Committee has been operating under. He referred to the North 9th Street example and pointed out that the one exception was clearly built as an R3. He said that is the reason he did not want to vote on individual properties.

Mark Hermodson reiterated his motion to send the staff's proposed map to the full Plan Commission with necessary property ownership line adjustments. The motion carried by voice vote 5 yes to 1 no.

KD Benson stated that this would be open for more discussion at the full APC meeting.

LaDonna Shorter asked if the Sanders property was still a separate issue.

KD Benson replied negatively. She explained that the map which was being sent to the full APC Commission for a vote was the staff's proposal.

LaDonna Shorter asked what the basis was that something had to be built as an R3 to stay an R3.

Mark Hermodson stated that has been the process used throughout the whole county. He said that it has been used for the past few years for these neighborhood rezonings.

LaDonna Shorter asked if there was a legal basis for that guideline.

Jay Seeger explained that in order to be consistent for all neighborhoods guidelines have to be established. He stated that this was a guideline that has been adopted during a similar process to be used for older neighborhoods, which had properties that were converted from single-family to multifamily.

KD Benson stated that another guideline the Committee used was that if a rezone was granted in the past few years, that rezone would stay with the property. She said at the full APC meeting, requests to change the map would be heard.

Sallie Fahey stated that the audience should be made aware that at the APC meetings, the 5-minute speaking rule is strictly enforced.

KD Benson stated that this would be heard at the April APC meeting.

James Werner asked if there have been any properties spot zoned that were not originally built as multifamily. He asked where the burden of proof lay on whether something was originally built that way. He referred to all the documentation he provided on his property showing its longevity as an R3.

Jay Seeger stated that this was not a judicial formula, it was a determination of what is an appropriate zoning for that neighborhood and those properties. He said that if someone disagrees with a zoning for a particular piece of property they could make a presentation and explain why they disagree.

James Werner asked if there was a precedent for properties where there was no proof available and if that has been the case for all spot rezones.

Sallie Fahey stated that the Committee has been consistent using that policy in older neighborhoods.

Steve Schreckengast clarified that a structure that was multifamily could still be used as such even if it was changed to an R2.

Sallie Fahey stated that was correct.

KD Benson stated that was correct and that property could even be sold and continued to be used as an R3. She said that it could not be rebuilt in the event of a disaster.

Bruce Bottum asked if a roll call vote could be included in the minutes.

KD Benson stated that was not a requirement of this Committee. She informed the audience that at the APC meeting, there would be a written ballot and votes would be recorded by name. She explained that as chairperson, she heard more yes than no votes.

III. CITIZEN COMMENTS

IV. ADJOURNMENT

Mark Hermodson moved to adjourn the meeting and the motion carried by voice vote..

Respectfully submitted,



Michelle D'Andrea
Recording Secretary

Reviewed by,



Sallie Dell Fahey
Executive Director